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DEC 28 2006

Petition to Withdraw Holding of Abandonment

Applicant: Bugh
Serial No.: 10/820,256
Filing Date: 8 April 2004
Examiner: Howell, Daniel
Art Unit: 3722
Confirmation No.: 7512
Docket No.: 2086001US2AP

I hereby certify this Correspondence is being deposited with the United States Postal service with sufficient postage for first class mail in an envelope address to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or is being facsimile transmitted (571-273-8300) to the USPTO, on December 28, 2006.



Fred H. Zollinger III, Reg. No. 39,438

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The Applicant hereby petitions under 37 CFR § 1.181(a) for a withdrawal of the holding of abandonment. The Notice of Abandonment is dated December 22, 2006. This Petition is thus being filed within the two month time period set forth in 37 CFR § 1.181(f). No fee is due with this Petition.

Paragraph 2(b) of the Notice of Abandonment indicates the reason for abandonment is that the publication fee was not submitted with the issue fee. The Applicant respectfully traverses this indication. The Applicant submitted payment of the publication fee along with the issue fee (and the advance order fee of \$3) on October 19, 2006. In support of its contention, the Applicant is attaching copies of:

- (1) the Issue Fee Transmittal with Certificate of Transmission;
- (2) the Credit Card Authorization Form (PTO-2038);
- (3) the Auto-Reply Facsimile Transmission indicating receipt of the two pages;
- (4) the attorney's facsimile transaction report; and
- (5) a copy of the Notice of Abandonment.

The Issue Fee Transmittal indicates the Applicant requested payment of both the Issue and Publication fees. The Credit Card Authorization form indicates the correct

payment amount and also indicates the Issue and Publication fees were to be paid. Both facsimile transaction reports indicate that both of these pages were received by the Office on the date of the Certificate of Transmission signed by the undersigned Attorney. Further, the undersigned Attorney personally transmitted the documents via facsimile transmission. The undersigned Attorney thus attests to the fact that both documents were transmitted to the Office on October 19, 2006, as indicated on the Certificate of Transmission. Further, the Image File Wrapper on PAIR shows the receipt of the Issue Fee Transmittal on October 19, 2006, with the direction to pay the publication fee.

The undersigned Attorney's credit card statement shows a \$703.00 charge on October 20, 2006, and a \$700 credit on November 4, 2006. The law office's accounting records attribute these two charges to application serial number 10/820,256. The \$1000.00 charge for the issue and publication fees was "on hold" and assumed to be in the process of being corrected by the Office and would appear on the next statement. Assuming the \$700 credit on November 4, 2006 was for application serial number 10/820,256, we submit the Office should charge the outstanding \$1000.00 fees to the credit card as originally authorized.

In view of the forgoing, the Applicant respectfully requests the Notice of Abandonment to be withdrawn, the fees to be charged as originally requested, and the Patent issued. Please contact the undersigned attorney with any questions about this submission.

Respectfully submitted,



Fred H. Zollinger III, Reg. No. 39,438

Zollinger & Burleson Ltd.

P.O. Box 2368

North Canton, OH 44720

330-526-0104 ext 1 - phone

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PART B - FEE(S) TRANSMITTAL

DEC 28 2006

Complete and send this form, together with applicable fee(s), to: **Mail** Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or **Fax** (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

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08/23/2006

FRED ZOLLINGER III
P.O. BOX 2368

12/29/2006 FRIETER 00000076 20820259

01 FC:2501 700.00 OP
02 FC:1504 300.00 OP
03 FC:8001 3.00 OP

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Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

Fred H. Zollinger III (Depositor's name)
C. D. [Signature] (Signatures)
19 October 2006 (Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,256	04/08/2004	Roger E. Bugh	2086001US2AP	7512

TITLE OF INVENTION: TOOL FOR POSITIONING TEMPLATES WITH RESPECT TO CURVED RAIL

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$700	\$300	\$0	\$1000	11/24/2006

EXAMINER	ART UNIT	CLASS-SUBCLASS
HOWELL, DANIEL W	3722	409-178000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 3 registered patent attorneys or agents. If no name is listed, no name will be printed.

1. Zollinger &
2. Burleson Ltd.
3.

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☒ Issue Fee
☒ Publication Fee (No small entity discount permitted)
☒ Advance Order - # of Copies 1

4b. Payment of Fee(s): (Please first recopy any previously paid issue fee shown above)

- ☐ A check is enclosed.
☒ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant, a registered attorney or agent, or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature

[Signature]

Date 19 October 2006

Typed or printed name

Fred H. Zollinger III

Registration No. 39,438

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
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PAGE 6/8 * RCVD AT 12/28/2006 10:54:37 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/46 * DNIS:2738300 * CSID:3304977477 * DURATION (mm:ss):02:06



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,256	04/08/2004	Roger E. Bugh	2086001US2AP	7512
45069 7590 12/22/2006 FRED ZOLLINGER III P.O. BOX 2368 NORTH CANTON, OH 44720			EXAMINER HOWELL, DANIEL W	
			ART UNIT 3722	PAPER NUMBER
			MAIL DATE 12/22/2006	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

- COPY -

Notice of Abandonment	Application No.	Applicant(s)	
	10/820,256	BUGH	
	Examiner	Art Unit	
	HOWELL	3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☐ No reply has been received.
2. ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☒ The submitted fee of \$700 is insufficient. A balance of \$300 is due.
The issue fee required by 37 CFR 1.18 is \$700. The publication fee, if required by 37 CFR 1.18(d), is \$300.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

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Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.